

MEETING OF THE STATE PROTEST COMMITTEE
October 27, 2016
PROTEST OF Fidelity Information Services
Competitive Solicitation 34530-44616
Electronic Benefit Transfer Services

The Central Procurement Office issued Competitive Solicitation 34530-44616 for Electronic Benefit Transfer Services on May 3, 2016. On July 8, 2016, the notice of intent to award the contract to Xerox State and Local Solutions, Inc. was sent to each of the proposers. July 15, 2016, Fidelity Information Services filed a letter of protest with the Chief Procurement Officer. September 13, 2016, the Chief Procurement Officer denied Fidelity Information Services' protest. September 20, 2016, Fidelity Information Services appealed the Chief Procurement Officer's decision to the State Protest Committee.

The State Protest Committee convened October 27, 2016 to hear Fidelity Information Services' protest appeal. The issues before the Committee were as follows:

1. The CPO's Clarification violated the terms of the Solicitation and provided Xerox an unfair advantage;
2. The CPO conducted a Best and Final Offer ("BAFO") process that violated the terms of the Solicitation and the CPO's rules and practice;
3. Xerox improperly shifted EBT costs to implementation and used the negotiation to increase the fixed costs paid by the State.

The State Protest Committee determined that:

1. There was no evidence that the clarification violated the terms of the solicitation and provided Xerox an unfair advantage. Each proposer received the same clarification during the BAFO process, neither proposer knew how the other party had proposed, and each proposer had an opportunity to revise their pricing.
2. There was no evidence that the CPO's rules and practice were violated. A BAFO process is common practice and gave both vendors an opportunity to readdress their pricing. One proposer chose to readdress pricing and the other did not.
3. There was also no basis presented to support that changing pricing approaches or strategies is prohibited. Both proposers had the opportunity to lower their total costs. The State evaluates solicitations based on total costs and there aren't prohibitions against a proposer changing costs underneath total costs.

As a result of its deliberations, the State Protest Committee unanimously determined that the Chief Procurement Officer's decision awarding the contract to Xerox State and Local Solutions, Inc. should be upheld, and denied Fidelity Information Services' protest. The State Protest Committee also decided that the protest bond should be returned to Fidelity Information Services.